

House Study Bill 612 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act relating to civil actions, procedures, and remedies and
2 including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **611.24 Costs — attorney fees.**

2 1. On the court's granting or denial, in whole or in part,
3 of a motion to dismiss a cause of action that has no basis
4 in law or fact, the court shall award costs and reasonable
5 attorney fees to the prevailing party in the civil action.

6 2. This section does not apply to actions by or against the
7 state, other governmental entities, or public officials acting
8 in their official capacity or under color of law.

9 Sec. 2. NEW SECTION. **613.3 Designation of third parties —**
10 **timely disclosure.**

11 A defendant is prohibited from designating a person as a
12 responsible third party with respect to a plaintiff's cause of
13 action after the applicable limitations period on the cause
14 of action has expired if the defendant has failed to timely
15 disclose that the person may be designated as a responsible
16 third party pursuant to rules of civil procedure 1.231 through
17 1.237.

18 Sec. 3. NEW SECTION. **624.12A Interlocutory appeal of order**
19 **involving controlling question of law.**

20 1. On a party's motion or on its own initiative, the
21 district court in a civil action, by written order, may permit
22 an appeal from an order that is not otherwise subject to appeal
23 if all of the following are met:

24 a. The order to be appealed involves a controlling question
25 of law upon which there is a substantial ground for difference
26 of opinion.

27 b. An immediate appeal from the order will materially
28 advance the ultimate termination of the litigation.

29 2. An appeal under this section does not stay proceedings in
30 the district court unless all of the following are met:

31 a. The parties agree to a stay.

32 b. The district court or appellate court orders a stay of
33 the proceedings pending appeal.

34 3. The supreme court may accept an appeal permitted by
35 this section if the appealing party files an application for

1 interlocutory appeal, explaining why an appeal is warranted
2 pursuant to subsection 1, within fifteen days after the date
3 the district court signs the order permitting the appeal. The
4 time period applicable to the filing of the notice of appeal
5 commences when the supreme court enters the order accepting the
6 appeal.

7 4. The supreme court shall prescribe rules providing for the
8 expediting of appeals pursuant to this section.

9 5. This section does not apply to an interlocutory appeal in
10 termination of parental rights or child in need of assistance
11 proceedings pursuant to chapter 232.

12 Sec. 4. NEW SECTION. 677.15 Offer requirements.

13 1. An offer to confess judgment made pursuant to this
14 chapter shall meet all of the following requirements:

15 a. Be in writing.

16 b. State that the offer is made pursuant to this chapter.

17 c. State the terms by which the claims may be settled.

18 d. State a deadline by which the offer must be accepted.

19 e. Be served on all parties to whom the settlement offer is
20 made.

21 2. A party is not required to file with the court an offer
22 to confess made pursuant to this chapter.

23 3. A party that makes an offer to confess that does not
24 comply with the requirements of this section shall not be
25 entitled to recover any costs pursuant to section 677.16.

26 Sec. 5. NEW SECTION. 677.16 Costs — limitation.

27 1. For purposes of this chapter, "costs" means moneys
28 actually spent and obligations actually incurred that are
29 directly related to an action in which an offer is made, and
30 includes all of the following:

31 a. Court costs.

32 b. Reasonable deposition costs.

33 c. Reasonable fees for not more than two testifying expert
34 witnesses.

35 d. Reasonable attorney fees.

2. Costs that may be awarded under this chapter shall not be greater than the total amount that the plaintiff recovers or would recover before adding an award of costs in favor of the plaintiff or subtracting as an offset an award of costs in favor of the defendant.

6 Sec. 6. REPEAL. Sections 677.2, 677.5, 677.10, and 677.13,
7 Code 2011, are repealed.

8 Sec. 7. MOTION TO DISMISS — FAILURE TO STATE CLAIM —
9 RULES. The supreme court shall prescribe rules to provide for
10 the dismissal of a civil action that has no basis in law or
11 fact on motion and without evidence. The rules shall provide
12 that the motion to dismiss shall be granted or denied within
13 forty-five days of the filing of the motion to dismiss. Such
14 rules shall not apply to termination of parental rights or
15 child in need of assistance proceedings pursuant to chapter
16 232.

17 Sec. 8. EFFICIENT RESOLUTION OF CIVIL ACTIONS — RULES. The
18 supreme court shall prescribe rules and procedures to promote
19 the prompt, efficient, and cost-effective resolution of civil
20 actions. The rules shall apply to civil actions in district
21 court in which the amount in controversy, including all claims
22 for damages of any kind, whether actual or punitive, penalties,
23 attorney fees, expenses, costs, interest, or any other type
24 of damage of any kind, does not exceed one hundred thousand
25 dollars. The rules and procedures shall address the need for
26 lowering discovery costs in such actions and the procedure
27 for ensuring that such actions will be expedited in the civil
28 justice system.

29 Sec. 9. APPLICABILITY. This Act applies to causes of
30 actions accrued on or after the effective date of this Act.

EXPLANATION

32 This bill relates to civil procedures, actions, and remedies
33 and includes an applicability provision.

34 MOTION TO DISMISS — FAILURE TO STATE A CLAIM.

35 RULES. The bill provides that the supreme court shall

1 prescribe rules to provide for the dismissal of a civil
2 action that has no basis in law or fact on motion and without
3 evidence. The rules shall provide that the motion to dismiss
4 shall be granted or denied within 45 days of the filing of the
5 motion to dismiss. Such rules shall not apply to termination
6 of parental rights or child in need of assistance proceedings
7 pursuant to Code chapter 232.

8 COSTS AND ATTORNEY FEES. The bill provides that upon the
9 court's granting or denial, in whole or in part, of a motion to
10 dismiss a cause of action that has no basis in law or in fact,
11 the court shall award costs and reasonable attorney fees to the
12 prevailing party in a civil action. The bill does not apply to
13 actions by or against the state, other governmental entities,
14 or public officials acting in their official capacity or under
15 color of law.

16 DESIGNATION OF THIRD PARTIES IN CIVIL ACTION — TIMELY
17 DISCLOSURE. The bill prohibits a defendant from designating
18 a person as a responsible third party with respect to a
19 plaintiff's cause of action after the applicable limitations
20 period on the cause of action has expired if the defendant has
21 failed to timely disclose that the person may be designated as
22 a responsible third party pursuant to rules of civil procedure
23 1.231 through 1.237.

24 INTERLOCUTORY APPEAL OF ORDER INVOLVING CONTROLLING QUESTION
25 OF LAW. The bill provides that, on a party's motion or on
26 its own initiative, the district court in a civil action, by
27 written order, may permit an appeal from an order that is
28 not otherwise subject to appeal if the order to be appealed
29 involves a controlling question of law upon which there is a
30 substantial ground for difference of opinion and an immediate
31 appeal from the order will materially advance the ultimate
32 termination of the litigation. Such an appeal does not stay
33 proceedings in the district court unless the parties agree to a
34 stay and the district court or appellate court orders a stay of
35 the proceedings. The appealing party must file an application

1 for interlocutory appeal explaining why an appeal is warranted
2 within 15 days after the date the district court signs the
3 order permitting the appeal. The time period applicable to
4 the filing of the notice of appeal starts when the supreme
5 court enters the order accepting the appeal. The bill provides
6 that the supreme court shall prescribe rules which provide
7 for the expediting of appeals. The bill does not apply to an
8 interlocutory appeal in termination of parental rights or child
9 in need of assistance proceedings pursuant to Code chapter 232.

10 SETTLEMENT OFFERS.

11 REQUIREMENTS. The bill provides that an offer to confess
12 judgment made pursuant to Code chapter 677 (offer to confess
13 judgment) shall be in writing, state that the offer is made
14 pursuant to Code chapter 677, state the terms by which the
15 claims may be settled, state a deadline by which the offer
16 must be accepted, and be served on all parties to whom the
17 settlement offer is made. A party is not required to file with
18 the court an offer to confess made pursuant to the bill. A
19 party that makes an offer to confess that does not comply with
20 the requirements of the bill is not be entitled to recover any
21 costs.

22 COSTS. The bill defines "costs" to mean money actually spent
23 and obligations actually incurred that are directly related to
24 an action in which an offer is made, and includes court costs,
25 reasonable deposition costs, reasonable fees for not more
26 than two testifying expert witnesses, and reasonable attorney
27 fees. Costs that may be awarded shall not be greater than
28 the total amount that the plaintiff recovers or would recover
29 before adding an award of costs in favor of the plaintiff or
30 subtracting as an offset an award of costs in favor of the
31 defendant. The bill makes conforming repeals to Code sections
32 677.2, 677.5, 677.10, and 677.13 relating to costs awarded for
33 settlements based upon the time the settlement offer is made
34 and accepted in the civil action.

35 EFFICIENT RESOLUTION OF CIVIL ACTIONS — RULES. The bill

1 provides that the supreme court shall prescribe rules and
2 procedures to promote the prompt, efficient, and cost-effective
3 resolution of civil actions. The rules shall apply to civil
4 actions in district court in which the amount in controversy,
5 including all claims for damages of any kind, whether actual or
6 punitive, penalties, attorney fees, expenses, costs, interest,
7 or any other type of damage of any kind, does not exceed
8 \$100,000. The rules and procedures shall address the need for
9 lowering discovery costs in such actions and the procedure
10 for ensuring that such actions will be expedited in the civil
11 justice system.

12 APPLICABILITY. The bill applies to causes of actions
13 accrued on or after the effective date of the bill.